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UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Yoshio MIYAMOTO et al.**

Group Art Unit: **2636**

Application No.: **10/756,827**

Examiner: **Van Thanh Trieu**

Filed: **January 14, 2004**

Confirmation No.: **2379**

For: **ELECTRONIC DIGITAL PRESSURE SWITCH**

Attorney Docket Number: **042018**

Customer Number: **38834**

REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

November 17, 2005

Sir:

It is respectfully requested that the "final" status of the Office Action mailed November 7, 2005 be withdrawn and a new Office Action, with a new mailing date and response due date, be issued. The final rejection is premature under the guidelines of the Manual of Patent Examining Procedure (MPEP) §706.07(a) for the reasons set forth below.

As stated in the MPEP, §706.07(a),

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

The MPEP goes on to state,

"Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted

in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art."

Item 1, on pages 2-4 of the current Office Action include a rejection of claims 7-8 on newly cited art. However, independent claim 7 was not amended by Applicants in response to the previous Office Action mailed June 1, 2005. Further, claim 8, which depends from claim 7, was only amended to improve form. In fact, claims 7 and 8 were allowed in the Office Action mailed June 1, 2005.

Because the §102(b) rejection of claims 7 and 8 constitutes a new ground of rejection that was not necessitated by Applicants' amendment of the claims, the "final" status of the present Office Action mailed November 7, 2005 is improper and should be withdrawn.

Therefore, it is respectfully requested that the Examiner reissue the present Office Action as a non-final Office Action.

Respectfully submitted,

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